

Policy Recommendations for Public-Facing Biometrics at Port Facilities

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Purpose

1. To transmit policy recommendations developed by the Port working group and reviewed by the Biometrics External Advisory Group to the Biometrics Special Committee for the following use cases:
 - Biometrics for Traveler Functions Using Private, Proprietary Systems
 - Biometrics for Traveler Functions Using Government Systems
 - Biometrics for Air & Cruise Entry
2. To receive Biometrics Special Committee feedback on the recommendations and potential process/timeline/format for Commission consideration
3. To receive a recommendation from the Biometrics Special Committee to the Commission with regards to the recommendations

BACKGROUND

Biometrics Motion 2019-13 (Adopted 12/10)

- 1. Adopted seven (7) guiding principles** for public-facing biometrics at Port facilities:
1) Justified, 2) Voluntary, 3) Private, 4) Equitable, 5) Transparent, 6) Lawful, 7) Ethical
- 2. Established a Port working group** to translate guiding principles into tangible & enforceable policy recommendations by the end of Q1 2020, for Commission passage by Q2 2020
- 3. Established an external advisory group** to provide feedback on proposed Port working group policy recommendations
- 4. Recommended the creation of an ad hoc, limited term commission committee** to oversee these efforts (Special Biometrics Committee)
- 5. Put a hold on any new or expanded uses of biometrics at Port facilities until after Commission approves of policy recommendations and adopts policies**

Key Dates

- **Commission Engagement:**
 - Two (2) Commission Study Sessions: Sep 10, 2019 and Oct 29, 2019
 - Commission Action adopting Motion: Dec 10, 2019
 - Commission Briefing: Feb 25, 2020
 - Commission Actions: Mar 10, 2020 and Apr 14, 2020
- **Development/Review of Recommendations:**
 - Port Working Group meetings/review: Dec 2019 – Aug 2020
 - Eight (8) External Advisory Group Meetings facilitated by consultants: Jan 17, 2020 – Sep 25, 2020
- **Biometrics Special Committee:**
 - Three (3) Commission Biometrics Special Committee: Feb 18, 2020; Mar 31, 2020; and Oct 8, 2020

Process

1. **Policy recommendations by “use case” rather than one comprehensive policy**
2. **Port Working Group identified five “use cases” for public-facing biometrics at Port facilities and drafted policy recommendations for each use case:**
 - Biometric Air Exit (**Submitted and Approved**)
 - Biometrics for Law Enforcement & Security Functions (**Tabled, Moratorium**)
 - Biometrics for Traveler Functions Using Private, Proprietary Systems
 - Biometrics for Traveler Functions Using Government Systems
 - Biometrics for Air & Cruise Entry
3. **External Advisory Group reviewed policy recommendations for each use case and provided feedback during facilitated meetings**
4. **Biometrics Special Committee reviewed policy recommendations for each use case**

USE CASES

Traveler Functions Using Private, Proprietary Systems

- Use of biometrics for traveler functions by **private-sector entities using proprietary systems**. For example:
 - Current use: CLEAR
 - Potential future use:
 - Boarding of departing cruise ships or domestic flights
 - Ticketing and bag-check for airlines or cruise lines
 - Access to tenant-controlled facilities e.g. airline passenger lounge
 - Access to a rental car at the Port's rental car facility;
 - Payment at airport restaurants or retail stores in lieu of credit card or cash.

Traveler Functions Using Government Systems

- Use of biometrics for traveler functions where a **private sector entity might wish to use an existing government biometrics system**. For example:
 - An airline using CBP’s Traveler Verification System for international departing passenger ticketing or bag check
 - The Port could use biometrics for access to its parking garage
 - Any Port use of biometrics utilizing a Port-controlled system is by definition a use of a government system, and therefore included in this use case.

Air and Cruise Entry

- **CBP's use of biometrics, specifically facial recognition, utilizing their TVS to confirm the identities of arriving international passengers as they exit aircraft or cruise ships.**
 - Entry into the United States is a federally regulated process, and all persons arriving at a port-of-entry to the United States are subject to inspection by CBP before entering the country.
 - The Port has no jurisdiction over these activities, but can still play an important transparency and accountability role.

RECOMMENDATIONS

Observations

- Not “consensus” recommendations
 - All stakeholder concerns are being submitted along with the staff recommendations to provide full transparency
 - Offered opportunity to advisory group members to submit letters outlining their concerns
- As per Motion 2019-13, these recommendations are not meant to suggest that the Port *should* implement public-facing biometrics, but rather how to do so in alignment with our guiding principles if the Commission decides it is appropriate.

SUMMARY RECOMMENDATIONS FOR:

- 1. Traveler Functions using Private, Propriety Systems**
- 2. Traveler Functions using Government Systems**

Justified

Approval Process and Notification

- Recommendation: If the Port has the ability to approve an application, the relevant Managing Director should consider certain criteria in deciding whether or not to approve the implementation, and consult with a newly created Technology Ethical Advisory Board. If the risks from the biometric implementation are deemed significant, then the Managing Director should deny the application.
- Recommendation: If the Managing Director plans to approve the request, they must first notify the Port's Executive Director and the Port Commission at least three (3) weeks in advance before providing that formal approval, and/or go through a Commission approval process. In specific circumstances, Port staff should also undergo a community engagement process before seeking Commission approval.

Voluntary

Approval Process and Developing Guidelines

- Recommendation: When the Port has jurisdiction to do so, it should not approve biometrics that do not include an opt-in provision, unless there is a demonstrated need to do so, such as a public health mandate. In this context, opt-in refers to both opting-in to the overall system (enrolling your biometrics in a database or gallery) as well as opting in to participating in the system at the point of service. The Port should not approve any applications for biometrics that operate by scanning large groups of people to identify those individuals who have opted in.
- Recommendation: The Port should develop guidelines for where and how biometrics can be used at Port facilities. In particular, these guidelines should include standards for “opt-in” and “opt-out”; and standards to avoid unintended image capture if facial recognition is implemented. Operators must demonstrate that they have been trained on these guidelines and standards.

Private

Standards & Requirements

- Recommendation: When the Port has jurisdiction to do so, the Port should develop and enforce minimum biometric data security and privacy standards.
- Recommendation for Traver Functions using Private, Proprietary Systems: For any proposed implementations of biometrics for traveler functions that have obligations related to U.S. Transportation Security Administration security and data privacy regulations (i.e. CLEAR), the proposal must demonstrate full alignment with the Port's Air Security Program rules and requirements.

Equitable

Training Guidelines & Accuracy

- Recommendation: The Port should develop biometric training guidelines for personnel who will be administering biometric technology on travelers.
- Recommendation: Applications for use of this technology must demonstrate that it performs at high levels of accuracy both overall and between various characteristics, particularly those relevant to biometric identification, as identified under the Washington state definition of “protected class.” These demonstrations of accuracy must result from testing in operational conditions. Applicants must agree to make available an application programming interface (API) or other technical capability, to enable legitimate, independent, and reasonable tests of those biometric technologies for accuracy and unfair performance differences across distinct subpopulations.

Transparent

Communications Plan and Accountability Report

- Recommendation: The Port should develop a comprehensive communications plan that notifies the general public of the implementation of public-facing biometrics at Port facilities, and all related information. The Port should also produce an annual accountability report that includes all approved, publicly available information.

Performance Evaluation

- Recommendation: The Port should periodically conduct its own performance evaluation, within the limitations of its authority, to ensure that Port employees and/or private sector operators are following all Port policies.

Lawful

Compliance and Advocacy

- Recommendation: Before the Port approves the implementation of public-facing biometrics, it must ensure that the proposal complies with all relevant state and federal laws, including privacy and discrimination laws.
- Recommendation: Port staff should actively track, and work with stakeholders to advocate for, state and federal laws and regulations that codify the goals of the Port's biometric principles.
- Recommendation for Traveler Functions using Government Systems: For airlines proposing to use CBP's Traveler Verification System, they must also include documentation of their compliance with CBP's Business Requirements.

Ethical

Engagement

- Recommendation: The Port should develop an engagement plan with local jurisdictions, nonprofit organizations and others to educate local immigrant and refugee communities about any biometric programs.
- Recommendation: The Port should work with local jurisdictions, nonprofit organizations and others to inform local immigrant and refugee communities about resources for sharing concerns about any incidents in which they do not feel they have been afforded their full legal rights and/or their treatment has not been fully respectful.
- Recommendation: The Port should form a Technology Ethical Advisory Board to advise on the ethical issues raised by implementation of biometric technology and other innovations.

Privacy

- Recommendation: The Port should require that operators do not disclose personal data obtained from a biometric system to a federal or law enforcement agency, except in certain situations.

SUMMARY RECOMMENDATIONS FOR: Air and Cruise Entry

Justified

Approval Process and Collaboration

- Recommendation: The Port should include the specific federal laws and statutes that allow CBP to implement biometrics at Port facilities in the annual accountability report so that travelers and the public understand. The Port should develop recommendations to CBP for their consideration regarding ways to avoid unintended image capture at Port facilities

Voluntary

Approval Process

- Recommendation: The Port should continue to pursue whether opt-in is an option for biometric entry at Port facilities. If not, the Port should design training guidelines to help cruise line employees to educate disembarking passenger about CBP rules regarding opt-out.

Private

Audit Reports

- Recommendation: The Port should request CBP audit reports on biometric entry systems on a regular basis and include appropriate information in the Accountability Report (see recommendation under “Transparent” principle).

Equitable

Accuracy and Training

- Recommendation: The Port should request biometric program accuracy rates from CBP on an annual basis. The Port should also request that CBP make available an application programming interface (API) or other technical capability, to enable legitimate, independent, and reasonable tests of those biometric technologies for accuracy and unfair performance differences across distinct subpopulations.
- Recommendation: The Port should develop suggested biometric training guidelines for personnel who will be administering the facial recognition technology on travelers, and how to deal with mismatching issues with sensitivity and discretion. The Port should share its training guidelines, specifically related to “cultural sensitivity and discretion”, with CBP and cruise lines for their voluntary adoption.

Transparent

Communications Plan and Accountability Report

- Recommendation: The Port should request that CBP notify the Port if and when they intend to conduct biometric entry. The Port should develop a comprehensive communications plan that notifies the general public of the implementation and all related information. The Port should produce an annual accountability report that includes all approved, publicly available information.

Lawful & Ethical

Advocacy

- Recommendation: Port staff should actively track and work with stakeholders to advocate for federal laws and regulations that support the Port's biometric principles. The Port should also identify existing pieces of legislation to support.

Engagement

- Recommendation: The Port should develop an engagement plan with local jurisdictions, nonprofit organizations and others to educate local immigrant and refugee communities about the biometric entry program and how to report incidents – in multiple languages and in culturally appropriate ways.

Questions?

Public-Facing Biometrics Guiding Principles

Justified	Should be used only for a clear and intended purpose and not for surveillance on large groups without a lawful purpose
Voluntary	Should be voluntary and reasonable alternatives should be provided for those who not wish to participate through an opt-in or opt-out process
Private	Should be stored for no longer than required by applicable law or regulations, and should be protected against unauthorized access
Equitable	Should be reasonably accurate in identifying people of all backgrounds, and systems should be in place to treat mismatching issues
Transparent	Should be communicated to visitors and travelers
Lawful	Should comply with all laws, including privacy laws and laws prohibiting discrimination
Ethical	Should act ethically when deploying technology or handling biometric data

Biometrics Working Group

- Matt Breed, Chief Information Officer
- Julie Collins, Director, Customer Experience
- Commander Lisa Drake, Port of Seattle Police Department
- Laurel Dunphy, Director, Airport Operations
- Marie Ellingson, Manager, Cruise Operations
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- James Jennings, Director, Airline Relations
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- Eric Schinfeld, Senior Manager of Federal Government Relations, External Relations
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- Veronica Valdez, Commission Specialist
- Todd VanGerpen, Manager, Aviation Innovation
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Biometrics External Advisory Group

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- Sasha Bernhard, Legislative Assistant, Office of US Representative Suzan DelBene
- Dana Debel, Managing Director, State and Local Government Affairs, Delta Air Lines
- Adele Fasano, Director, Field Operations, Seattle Field Office, US Customs & Border Protection
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- Elizabeth Tauben, Manager Port Guest Services & Clearance, Norwegian Cruise Line Holdings
- Jennifer Thibodeau, Public Policy Manager - Western States, Amazon Web Services
- Jevin West, Director, Center for an Informed Public, University of Washington

Biometric Air Exit

- Use of biometrics, specifically facial recognition technology, to verify the identity of **departing international air passengers** using US Customs & Border Protection's (CBP) Traveler Verification System (TVS).
 - First use case reviewed
 - Policy recommendations were reviewed by the Biometrics Special Committee on Feb 18, 2020
 - Policy recommendations were approved by the Commission on Mar 10, 2020
 - Executive Policy developed EX-22 on Apr 3, 2020
 - Review by the External Advisory Group was expedited due to Commission Action in March. Some stakeholders felt they did not have enough time to fully vet the recommendations

Law Enforcement & Security Functions

- Use of biometrics, including facial recognition, to perform public-facing law enforcement and security functions at Port facilities.
 - On July 14, 2020, the Port Commission extended its moratorium on these uses as part of its motion on assessing Port policing.
 - Therefore, staff did not vet its policy recommendations with the Biometrics External Advisory Group, and is not transmitting those recommendations to Commission.
 - If and when the Commission wishes to revisit the issue, Port staff will vet its draft policy recommendations with external stakeholders at that point.